

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LUIS NIEVES,

Plaintiff,

vs

9:07-CV-655

D. ALDRICH; T. EAGEN; T. FAUSS; J. NICHOLS;
D. PICENTE; R.F. RAYMOND; DEPARTMENT OF
CORRECTIONAL SERVICES; BRIAN FISHCER,
Commissioner, sued in his Official Capacity; and
K. PERLMAN, Superintendent, Mid-State
Correctional Facility,

Defendant.

APPEARANCES:

OF COUNSEL:

LUIS NIEVES
Plaintiff, Pro Se
64-66 Essex Street
Apt. 17-C
New York, New York 10002

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
Department of Law
Suite 102
615 Erie Boulevard West
Syracuse, NY 13204

HEATHER R. RUBINSTEIN, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Luis Nieves, brought this civil rights action in June 2007, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated August 28, 2009, the Honorable Gustave J. DiBianco, United States Magistrate Judge, recommended that defendants' motion for

judgment on the pleadings (Docket No. 33) be granted, and the complaint be dismissed in its entirety. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge DiBianco, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

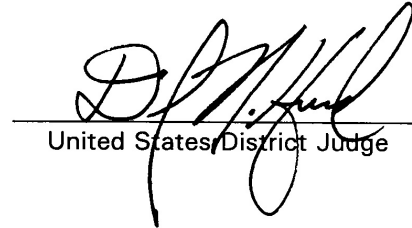
Accordingly, it is

ORDERED that

1. The defendants' motion for judgment on the pleadings is GRANTED;
2. The complaint is DISMISSED in its entirety; and
3. The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: September 23 2009
Utica, New York.



United States District Judge